IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23576 of 2004

Between:

Ch.Pramodh S/o.late Mohan Rao
D.No.11-62-113,1st Floor, Canal Road,
Vijayawada -1.

..... PETITIONER

AND

The Assistant Divisional Engineer APSPDCL Distribution-1.
Vijayawada, Krishna District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of writ of Mandamus declaring the impugned proceedings issued by the respondent dt 27-11-2004 served on 2-12-2004 in Lr,ADE/I/DI/Sub-Er/F.Dkt.No.54/D.No.1446/2003 demanding the payment of a sum of Rs.31,823/- being 50% of the differential amount towards non-domestic consumption charges though the service connection is being used for domestic purpose and threatening to disconnect the power supply to Sc.No.35700/2324 by 17-12-2004 as illegal, arbitrary, capricious and without jurisdiction and consequently to set-aside the proceedings.

Counsel for the Petitioner: SMT.N.(P).ANJANA DEVI

Counsel for the Respondent: MR K.RAVINDRA KUMAR (SC FOR APTRANSCO)

The Court, at the stage of admission, made the following:

ORDER:

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Petitioner was issued an order of provisional assessment, dated 27.11.2004, wherein it was pointed out that he had resorted to malpractices and the resultant loss is said to be Rs.63,646/-. Petitioner is required to pay half of the amount to ensure continuance of supply. Action of the respondents in insisting on payment of the said amount is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned standing counsel for respondents.

By its very nature, an order of provisional assessment cannot bring about any liability upon the consumer. The consumer is to be issued a show cause notice, and thereafter an order of final assessment is to be passed. It is only when such an order is passed, that the actual liability would arise. In W.A.No.452 and 477 of 2004, a Division Bench of this Court held through its order, dated 11.03.2004, that a consumer cannot be fastened with any liability, on the strength of an order of provisional assessment.

Following the same, the writ petition is disposed of directing that the respondents shall continue power supply to the petitioner, without insisting on payment of any amount as indicated in the order of provisional assessment. He shall, however, be liable to pay the regular consumption charges. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 20th December, 2004

Note: Office to furnish copy

by 21.12.2004

(B/o.)

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To

1 The Assistant Divisional Engineer APSPDCL Distribution-1.
Vijayawada, Krishna District.

2 2CD copies